

State of Florida



**Public Service Commission**

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** May 6, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (MAKIN, BULECZA-BANKS)  
Division of Economic Regulation (KUMMER)  
Office of the General Counsel (C. KEATING)

**RE:** Docket No. 040259-GU – Petition for approval of special contract with Pasco Cogen, Ltd. by Peoples Gas System.

**AGENDA:** 05/18/04 – Regular Agenda – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\040259.RCM.DOC

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**Case Background**

Peoples Gas System (Peoples or the Company) and Pasco Cogen are parties to an Amended and Restated Gas Transportation Agreement dated February 15, 1993. Pasco Cogen burns the gas it receives to operate combustion turbines, and a steam turbine generator, for production of electricity, which it sells to Progress Energy Florida, Inc. pursuant to a negotiated power purchase agreement approved by the Commission. The term of the power purchase agreement initially had an expiration date of June 30, 2013, but was changed to December 31, 2008, by a contract amendment approved by this Commission in 1997.

Under the current agreement, Peoples provides transportation service for Pasco Cogen at the transportation rate set forth in Peoples' Rate Schedule Interruptible Service Large Volume (ISLV), which is available to interruptible customers who consume 50 million therms or more per year. At the time the parties entered into the agreement, Peoples transported approximately 70 million therms annually to Pasco Cogen's facility.

Changes in the operation of the cogeneration facility have caused a reduction in the demand for gas. Currently, consumption is slightly less than the 50 million therms annually required for Pasco Cogen to qualify for Rate Schedule ISLV.

On March 24, 2004, Peoples filed a petition for approval of a special contract with Pasco Cogen, Ltd. This recommendation addresses Peoples' March 24, 2004, petition.

Jurisdiction over this matter is vested in the Commission by several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

### **Discussion of Issues**

**Issue 1:** Should the Commission grant Peoples Gas System's petition for approval of a special contract with Pasco Cogen, Ltd.?

**Recommendation:** Yes. The Commission should grant Peoples Gas System's petition for approval of a special contract with Pasco Cogen, Ltd., effective May 18, 2004, the date of the Commission's vote on this matter. (Makin, Bulecza-Banks, Kummer)

**Staff Analysis:** Currently, Pasco Cogen's consumption is slightly less than the 50 million therms annually required to qualify for Rate Schedule ISLV. Several factors have caused the quantities of gas used, and expected to be used in the future by Pasco Cogen, to decrease below Rate Schedule ISLV's 50 million therm threshold. Progress Energy's curtailment plan permits it to curtail deliveries of energy by Pasco Cogen and other cogenerators when the demand for electricity on the Progress Energy system is low. The power purchase agreement also provides that Pasco Cogen receives firm energy payments only during the on-peak hours identified in the agreement. During all other hours, Pasco Cogen is paid Progress Energy's "as available" energy cost for electric energy delivered to the utility. At most times, the "as available" rate does not cover Pasco Cogen's delivered cost of gas, and it is often forced to shut down at least one of its gas turbine generators in order to maintain economical operation of its cogeneration facility. Finally, the citrus processing plant that takes thermal energy from Pasco Cogen in the form of steam, stopped operating its evaporators used to produce citrus concentrate, resulting in a decrease in its demands for steam from Pasco Cogen.

As a result of Pasco Cogen's decrease in annual consumption, Peoples and Pasco Cogen entered into an amended special contract. The new special contract will preserve the minimum revenue stream contemplated by both Peoples and Pasco Cogen at the time Pasco Cogen initially contracted for transportation service. At the former ISLV rate of \$0.0109 per therm, Pasco Cogen's consumption of 70 million therms provided non-fuel revenue of approximately \$763,000 annually. Under the proposed tiered rate levels of consumption in the special contract, filed under separate request for confidentiality, the rates are designed to preserve this revenue stream for the benefit of Peoples and its ratepayers, while providing Pasco Cogen with certainty regarding its rate at each level of consumption. This will also provide Pasco Cogen with flexibility in operating its facility to meet other possible changes in circumstances over which it has no direct control.

Reduction in quantities of gas to be taken by Pasco Cogen was not known or anticipated when Peoples filed its most recent rate case. Pasco Cogen's annual consumption did not drop below 50 million therms until December 2002, the month of the final hearing in Peoples' most recent rate case, in Docket No. 030923-GU. Applying the full Interruptible Service (IS) rate of \$0.03522 per therm could adversely affect Pasco Cogen and Peoples' other ratepayers. The higher rate could cause Pasco Cogen to run its facility even less in off-peak hours, which could contribute to the closure of the facility. Reduction in usage or closure of the facility would contribute to loss of revenues, which could force Peoples into filing for a rate increase.

As Peoples stated in its petition, had they known at the time it filed its rate case that Pasco Cogen's consumption would be reduced in the immediate future, it would have included in its filing approval of a special contract, similar to the one the Company is proposing.

Staff believes that Peoples' proposed tiered rate levels of consumption in the special contract are appropriate and should be approved, because they will preserve the revenue stream for the benefit of Peoples and its ratepayers while providing Pasco Cogen the flexibility in the operation of its facility. The special contract should become effective on May 18, 2004, the date of the Commission's vote on this matter.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If a protest is filed within 21 days of the Commission Order approving this special contract by a person whose substantial interest are affected, the special contract should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. (C. Keating)

**Staff Analysis:** If a protest is filed within 21 days of the Commission Order approving this special contract by a person whose substantial interest are affected, the special contract should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.